IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

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WRIT PETITION NO : 22581 of 1995

Between:

1 Y.Ramachandra Rao S/O Basavaraju,
R/o 19-4-16, Gandhinagar, Gollagatta road, Bhadrachalam,

Khammam dist.
2 Ch.Sreeramurthy s/o Narayana,
19-4-17, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
3 Kurra Gangaiah s/o Pitchaiah
19-4-17/1, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
4 Jammula Sarojini, W/o Adinarayana,
19-4-18, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
5 I.Ramana Kumar s/o Veerabhadra rao
19-4-19, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
6 Sk Gajumiya s/o Shail Ali,
19-4-21, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
7 Yerra Nukala Krishnarjuna rao s/o Chinnaiah
19-4-22, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
8 Sani Venkateshwarlu s/o Nagaiah
19-4-23, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
9 Korakasula Ramaiah s/o Venkaiah
19-4-24, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
10 Kapula Bharathudu s/o Pothaiah
19-4-29, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
11 Kapala Krupadas s/o Laxmana
19-4-30, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
12 Marlapati Babu s/o Ramulu,
19-4-32, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
13 Kapula Krishna s/o Laxmana,
19-4-31, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.
14 Machineni Venkateswarlu s/o Seethaiah,

19-4-34, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

15 Sr. Alma St. Ann's church for bishop Marampudi Jogi,
Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

16 Smt. Ulavala Tirupathamma, w/o Bhadraiah,
19-4-36, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

17 Koppula Krishna Murthy s/o Rathaiah,
19-4-37, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

18 Seelam Radhakrishna Reddy, s/o Konda Reddy,
19-4-38, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

19 Maddiboyina Basavaiah s/o Laxmaiah,
19-4-27, Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

20 Korakasula Yedukondalu, s/o Venkaiah,
Gandhinagar, Gollagatta road, Bhadrachalam, Khammam dist.

..... PETITIONER(S)

AND

1 The Mandal Revenue Officer,
Bhadrachalam, Khammam dist.

2 The District Collector,
Khammam district.

3 The Principal Secretary to Government Revenue Department,
Secretariat Buildings, Hyderabad.

4 The Revenue Divisional Officer,
Bhadrachalam, Khammam district.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of mandamus declaring the action of the 1st respondent in issuing Sec-7 notice in his
Lr. no. 316/95 dt. 12/5/95 and the consequential proceedings
No.A/1737/88 dt. 31/7/95 without passing any orders on the replies submitted by the petitioners is highly illegal, void, arbitrary and contrary to art.14 and 21 of the Constitution of India and consequentially to direct the respondents not to take any steps to evict and demolition of the houses of the petitioners situated near Gollagatta, Bhadrachalam town, Khammam dist. and also direct the respondents to assign the house sites to the petitioners after accepting the reasonable rates prescribed by the Government.

Counsel for the Petitioners:MR.P.V.RAMANA

Counsel for the Respondents 1 to 4: GP FOR REVENUE

The Court at the stage of admission made the following ORDER:

The petitioners, 20 in number, filed this writ petition challenging the action of the first respondent in issuing Notice dated 12-05-1995 under Section 7 of the A.P. Land Encroachment Act, 1905 (for short "the Act"), and the consequential proceedings, dated 31-07-1995, as bad in law. The petitioners, accordingly, pray for grant of consequential directions directing the respondents not to take any steps to evict and demolish their houses situated near Gollagatta, Bhadrachalam town, Khammam District.

The petitioners claim to be the landless poor persons belonging to different communities. They are in occupation of the Estate lands situated nearby Gollagatta Road, Bhadrachalam for the last 15 to 20 years. Each of them claim to be in occupation of the Estate land admeasuring Ac.0-05 cents and have put the land to use for residential purposes. Some of them claim to have constructed pucca buildings.

It is stated that after receiving Section 7 notice dated
12-05-1995, a common reply was submitted by the petitioners on
19-05-1995 to the first respondent. On 31-07-1995, by common proceedings, the petitioners were directed to appear before the first respondent on 16-09-1995. The

petitioners, accordingly, appeared before the first respondent, but he was not present in the office. Apprehending summary dispossession, the present writ petition has been filed.

That a detailed counter affidavit has been filed by the Mandal Revenue Officer, in which, it is *inter alia* stated that the Settlement Officer, Venkatapuram, had taken up *suo motu* enquiry under Section 9(3) of the A.P. (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (Regulation 2 of 1970) for grant of Ryotwari patta to one Sri Kapula Bazaru in Survey No.88 admeasuring Ac.3.40 cents, situated in Bhadrachalam village, which is a part of Bhadrachalam Zamin Estate, taken over by the Government on 10-11-1952 under the provisions of the Estates Abolition Act, 1948 and his claim was rejected vide order dated
10-05-1979. The said individual, who is a non-tribal, aggrieved by the orders passed by the Settlement Officer, filed an appeal before the Director of Settlements, which was dismissed on 19-06-1987. The Commissioner of Survey and Settlements having received the second appeal from the said Kapula Bazaru, granted an order of *Status quo* vide order, dated 22-06-1987. That under the guise of the *status-quo* orders, the said Kapula Bazaru had sold away some portion of the land to the petitioners, who are admittedly
non-tribals. The Commissioner, later on, has withdrawn the order of *Status quo* and accordingly directed to take action to evict the
non-tribals, who are in possession of the schedule property. In response to the orders of the Commissioner of Settlements and Land Records, vacant land admeasuring Ac.2.15 cents in Survey No.88 has been taken possession by the Mandal Revenue Officer on 06-02-1993 leaving the balance area in possession of the petitioners. The petitioners were issued notices under Section 7 of the Act, to which, a common proforma reply was submitted by them.

In the meanwhile, the said Kapula Bazaru filed a revision before the Government, which was dismissed vide G.O.Ms.No.1188, Revenue (Assignment-II) Department, dated
19-11-1994 with an observation that the land in scheduled areas can be transferred only in favour of the tribals and tribal
co-operatives. The revision petition submitted by the petitioners was also dismissed by the Government.

It is unnecessary to go into the questions raised by the petitioners in this writ petition and express any opinion even with regard to the averments made in the counter-affidavit filed by the respondents. The fact remains that the petitioners have already raised their objections as to why the proceedings initiated against them under Section 7 of the Act cannot be allowed to go on against them, inter-alia, contending that the provisions of the Act have no application whatsoever in respect of the lands in possession of the petitioners. It is needless to observe that the respondent is bound to consider the objections raised by the petitioners before passing any orders under Section 6 of the Act. That so far no orders as such, have been passed under Section 6 of the Act. The petitioners cannot be evicted from the lands in their possession unless the proceedings under Section 6 of the Act have been issued, for which purpose, the objections raised by the petitioners have to be considered. The respondent shall serve a copy of the order to be passed upon the petitioners, so that if they are aggrieved by the same, they may seek appropriate remedies as may be available to them in law.

In the circumstances, this writ petition is disposed of directing the respondents herein not to evict the petitioners from the lands in their possession until appropriate orders are passed under Section 6 of the Act. There shall be an order accordingly.

The writ petition is accordingly disposed of without any order as to costs.

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(B.SUDERSHAN REDDY, J)

16th DECEMBER, 2004.

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To

1 The Mandal Revenue Officer,
BHADRACHALAM, KHAMMAM DIST.
2 The District Collector,
KHAMMAM DIST.
3 THE PRL. SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT BUILDINGS, HYDERABAD
4 THE Revenue Divisional Officer,
BHADRACHALAM, KHAMMAM DIST.

5 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad (OUT).

6 Two CD copies.